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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,212	12/01/2003	Nicolas Voyer	243565US2	9810
22850	7590	02/07/2006	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			GARY, ERIKA A	
			ART UNIT	PAPER NUMBER
			2681	

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/724,212

Applicant(s)

VOYER, NICOLAS

Examiner

Erika A. Gary

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 and 9 is/are allowed.
- 6) ☒ Claim(s) 1-6, 10-12, 16-18 and 21-23 is/are rejected.
- 7) ☒ Claim(s) 7, 13-15, 19, 20, 24-29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 10-12, 16-18, and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwinghammer et al., US Patent Number 5,953,661 (hereinafter Schwinghammer).

Regarding claims 1, 4, and 10, Schwinghammer discloses a method (and device) of simulating operating conditions of a telecommunications system including a plurality of radio base stations and a plurality of mobile transceivers, comprising: computing at least one value of at least one interference parameter of one of said mobile transceivers, the at least one interference parameter being indicative of an amount of interference affecting a communication between said mobile transceiver and an associated radio base station; identifying radio base stations and mobile transceivers that generate a significant amount of interference affecting said communication; and selecting data of radio base stations and mobile transceivers identified during the identification step for an execution of the computing step [col. 3: line 60 – col. 4: line 60; col. 6: line 49 – col. 7: line 24].

Regarding claims 2, 5, and 11, Schwinghammer discloses a step of creating, for a given cell including a radio base station, a neighbor list containing identities of neighbor cells including radio base stations with which a mobile transceiver in said given cell could potentially establish a communication, the identification step identifying neighbor cells of said given cell including the mobile transceiver to which the at least one interference parameter is computed [col. 8: line 60 – col. 9: line 5].

Regarding claims 3, 6, and 12, Schwinghammer discloses identifying cells which are neighbors to a predetermined degree of said given cell including the mobile transceiver to which the at least one interference parameter is computed [col. 4: lines 43-45].

Regarding claims 16 and 21, Schwinghammer discloses creating a neighbor list comprises creating a list comprising cells generated by a radio network controller and broadcasted to all mobile transceivers included in each given cell [col. 9: lines 11-13].

Regarding claims 17 and 22, Schwinghammer discloses the creating a neighbor list comprises creating a list comprising cells having a coverage area geographically adjacent to a coverage area of said given cell [col. 9: lines 13-15].

Regarding claims 18 and 23, it is inherent to discard unnecessary data in order to conserve memory resources.

***Allowable Subject Matter***

3. Claims 8 and 9 are allowed.

4. Claims 7, 13-15, 19, 20, and 24-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

5. Applicant's arguments filed November 16, 2005 have been fully considered but they are not persuasive. Applicant argues that Schwinghammer does not teach or suggest a simulation method, system or apparatus. In response to applicant's arguments, the recitation "simulating operating conditions" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika A. Gary whose telephone number is 571-272-7841. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EAG  
February 1, 2006

  
ERIKA A. GARY  
PRIMARY EXAMINER